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Elimination of racism, racial discrimination, xenophobia and related intolerance

Contemporary forms of racism, racial discrimination, xenophobia and related intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report prepared by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere, on the implementation of General Assembly resolution 66/143.

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Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on the implementation of General Assembly resolution 66/143

Summary

The present report to the General Assembly is submitted pursuant to Assembly resolution 66/143 on the inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance, in which the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance is requested to prepare a report on the implementation of the resolution, based on the views collected from Governments and non-governmental organizations.

Following a brief introduction on the content of resolution 66/143, the Special Rapporteur summarizes the contributions sent by 17 States on the implementation of the resolution, as well as views sent by seven non-governmental and other organizations and the Office of the United Nations High Commissioner for Refugees pertaining to the issue raised in the resolution. The Special Rapporteur then puts forward a number of conclusions and recommendations.

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I. Introduction

1. In its resolution 66/143, the General Assembly, alarmed at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as similar extremist ideological movements, noted with concern, in paragraph 6, the increase in the number of racist incidents in several countries and the rise of skinhead groups, which had been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of ethnic, religious or linguistic minorities, as observed by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (see A/HRC/20/38 and A/66/312).

2. In paragraph 7 of the resolution, the Assembly reaffirmed that such acts might qualify to fall within the scope of activities described in article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination and that they might represent a clear and manifest abuse of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression within the meaning of those rights as guaranteed by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

3. In paragraph 9, the Assembly stressed that such practices fuelled contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contributed to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and emphasized, in paragraph 10, the need to take the measures necessary to put an end to those practices.

4. In the context of the foregoing, the Assembly, in paragraph 23, recalled the request of the Commission on Human Rights in its resolution 2005/5 that the Special Rapporteur continue to reflect on the issue, make relevant recommendations in his future reports and seek and take into account in that regard the views of Governments and non-governmental organizations. In paragraph 24, it requested the Special Rapporteur to prepare, for submission to the General Assembly at its sixty-seventh session and to the Human Rights Council at its twentieth session, reports on the implementation of the resolution based on the views collected in accordance with the request of the Commission.

5. In accordance with the practice established in previous reports, the present report summarizes information received on relevant activities undertaken by Member States pursuant to resolution 66/143. In preparing the report, the Office of the United Nations High Commissioner for Human Rights sent a note verbale on 12 April 2012 to Member States and a letter to non-governmental organizations requesting information on the implementation of the resolution, to be received by 24 May 2012. As at 13 August 2012, replies had been received from the following 17 Member States: Argentina, Armenia, Azerbaijan, Cyprus, Greece, Iraq, Jordan, Lebanon, Madagascar, Mexico, Paraguay, Philippines, Portugal, Russian Federation, Slovakia, Spain and Venezuela (Bolivarian Republic of). As at 24 May 2012, the Special Rapporteur had received contributions from Adalah: Legal Center for Arab Minority Rights in Israel, and the BADIL Resource Center for Palestinian Residency and Refugee Rights, non-governmental organizations (NGOs) in consultative status

with the Economic and Social Council, Amis des étrangers au Togo, the Lithuania without Nazism Association, Native American individuals and organizations, the British Irish Rights Watch and the Association of Human Rights in Kurdistan of Iran.

6. The Office of the United Nations High Commissioner for Refugees (UNHCR) also submitted a contribution. The information received is summarized in the present report; the original texts of the contributions are available for consultation at the Office of the United Nations High Commissioner for Human Rights.

II. Contributions received from Member States

Argentina

7. In its reply, the Government of Argentina noted that the International Convention on the Elimination of All Forms of Racial Discrimination had been incorporated into Argentine law and granted constitutional rank through Act No. 26.162. The competence of the Committee on the Elimination of Racial Discrimination to receive and consider communications from individuals or groups of individuals claiming to be victims of a violation by the State of any of the rights set forth in the Convention (art. 14, para. 1) is recognized under article 1 of Act No. 17.722 of 26 April 1968.

8. Article 2 of the Act provides that, in accordance with article 14, paragraphs 2 and 3, of the Convention, the National Institute to Combat Discrimination, Xenophobia and Racism is designated as the body competent under national law to receive and consider the communications referred to in article 1 of the Act. Since its establishment, the National Institute to Combat Discrimination, Xenophobia and Racism has carried out activities to raise the profile of historically vulnerable groups and raise awareness within society about non-discrimination and respect for diversity. In the past year it has conducted numerous activities to promote the recognition of different cultures in Argentina and has developed various training and reference materials. The Education Department of the Institute designs and implements positive actions to encourage respect for human rights. The Institute's Coordinating Body for Civil Society Networks provides forums for civil society and non-governmental organizations to participate and be consulted on issues concerning discrimination, xenophobia and racism. The Intercultural Department of the Institute has established an interreligious project to promote dialogue among members of different religious faiths through collaborative efforts to create training and awareness-raising materials. The Institute has also established the Observatory on Discrimination in Radio and Television and the Observatory on Discrimination in Football to monitor and analyse manifestations of discrimination within those specific domains.

9. Act No. 23.592 establishes an aggravating circumstance for offences committed on grounds of persecution or hatred based on race, religion or nationality, or for the purpose of completely or partially annihilating a national, ethnic, racial or religious group. Argentina has also established a National Plan against Discrimination on the basis of the Durban Declaration and Programme of Action.

Armenia

10. In its reply, the Government of Armenia indicated that according to the Criminal Code of the Republic of Armenia, actions aimed at incitement of national, racial or religious hostility or racial superiority constituted crimes. The following acts are the aggravating circumstances of such crimes: commission by using mass media; threat of use of violence; use of official position; as well as commission by an organized group. According to article 21 of the Law on Non-governmental Organizations, a State-authorized body may file a claim with the court requesting the dissolution of an organization if its activities are aimed at inciting national, racial or religious hatred or stirring up violence or war.

11. The commission of a criminal offence on the basis of national, racial or religious hatred or religious fanaticism is an aggravating circumstance entailing criminal liability in general.

Azerbaijan

12. In its reply, the Government of Azerbaijan stressed that the Ministry of Internal Affairs implemented all the necessary measures to combat discrimination and xenophobia in accordance with the Constitution and other legislative acts. It referred to the 2007 National Security Conception of Azerbaijan, which contains crucial provisions on safeguarding national and religious tolerance.

13. In line with the National Action Plan for the Protection of Human Rights, awareness-raising activities were undertaken for the strengthening of intercultural dialogue and interfaith cooperation; the protection and further development of the cultural heritage of ethnic minorities; the prohibition of discrimination; and the promotion of a culture of peace and tolerance in the districts and regions of the country. Awareness-raising measures are also implemented in the field of religious tolerance.

14. Activities that promote and incite racial and religious discrimination are prohibited. The State Committee on Work with Religious Organizations prevents the import and spread of harmful literature that serves to provoke confrontation among religions and confessions and to spread religious extremism and inhuman ideas.

15. The Government referred to the 2011 European Union-Azerbaijan intercultural dialogue held at the European Parliament in Brussels and the 2011 World Forum on Intercultural Dialogue held in Baku. The Government indicated that it attached particular importance to human rights education and that the Ministry of Education regularly organized events to strengthen respect for people of different cultures, ethnicities and religions. The Ministry of Education provides opportunities for studying the languages, history and cultures of ethnic minorities. Members of national minorities are allowed to study in their native languages in schools.

16. Newspapers and magazines are published in the languages of national minorities and the public radio station regularly broadcasts programmes in national minority languages. Furthermore, regional television stations have programmes in native languages of the minority groups.

17. Azerbaijan has adhered to the Convention on the Promotion and Protection of the Diversity of Cultural Expressions of the United Nations Educational, Scientific

and Cultural Organization. An action plan has been prepared and several events organized including the publication of booklets and brochures reflecting the cultural diversity of the country and the organization of exhibitions, concerts, competitions and other similar events.

Cyprus

18. In its reply, the Government of Cyprus indicated that the Law on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law criminalized public incitement to violence or hatred directed against a group of persons or a member of such a group on the basis of race, colour, religion, descent, or national or ethnic origin, and public condoning, denying or trivializing crimes of genocide, crimes against humanity and war crimes. The Law also states that racist and xenophobic motivation for any offence constitutes an aggravating circumstance.

19. Law 13/67, which ratified the International Convention on the Elimination of All Forms of Racial Discrimination, was amended in order to create several criminal offences relating to racism and to ensure that the element of intention is no longer part of the offence of incitement to acts of discrimination.

20. Section 2A (1) and (2) of the Law provides that any person who in public, either orally or through the press or by means of any document or picture or by any other means, incites acts that are likely to cause discrimination, hatred or violence against any person or group or group of persons on the basis of their racial or ethnic origin or religion is guilty of an offence and liable to imprisonment or to a fine; any person who establishes or participates in any organization which promotes organized propaganda or activities of any kind aiming at racial discrimination is guilty of an offence and is liable to the same punishments. Section 2A (3) of the Law provides that any person who in public, either orally or through the press or by means of any documents or pictures or by any other means, expresses ideas insulting any person or group of persons by reason of their racial or ethnic origin or religion is guilty of an offence and liable to imprisonment or a fine.

21. Cyprus has ratified the Convention on the Prevention and Punishment of the Crime of Genocide, Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems of the Council of Europe.

22. Legal aid is granted in proceedings before the courts under certain conditions to refugees and asylum seekers and in the context of the return of irregularly staying third-country nationals.

23. The Human Rights Office, established in 2000, operates under the European Union and International Police Cooperation Directorate at police headquarters. It is actively involved in promoting the rights of people in police custody, especially non-national detainees, and is responsible for monitoring the living conditions in police detention centres and preparing reports with suggestions to the Chief of Police for harmonization with international standards. The Office organizes human rights and policing seminars and training at the police academy.

24. In 2005 the Cyprus Police established the Office for Combating Discrimination. The Office is responsible for issues relating to discrimination,

racism and xenophobia, posting liaison officers at all police divisions. It cooperates with other departments of the police as well as with other governmental and non-governmental organizations and registers criminal offences with a racist motive through the electronic Crime Report Registry. Offences are categorized on the basis of the type of motive, including ethnicity, religion and colour, and the Registry is updated twice a year.

25. Ethnic liaison officers at every divisional police headquarters are appointed to liaise with local leaders or members of ethnic communities and to focus on issues of race and ethnicity. They cooperate with the Office for Combating Discrimination in handling racially motivated offences and incidents. The police organize, in cooperation with associations and the leadership of various ethnic communities, public social events to build mutual understanding and respect between the police and these communities. Reference was made, inter alia, to the implementation of the Community Action Programme to Combat Discrimination.

26. Human rights issues are included in the curricula for all police officers and human rights courses are reinforced through the participation of professionals with an academic background or with experience in the area of human rights. Training of the police on issues of discrimination focuses on harmonizing mentality with the new multicultural environment of Cypriot society. Much emphasis is put on building and maintaining a positive approach by members of the police towards all individuals, regardless of their culture, customs, religion and origin. Members of the police also participate in seminars relating to human rights, discrimination and racism organized abroad.

Greece

27. In its reply the Government of Greece indicated that the Greek regulatory framework on racial discrimination contained protective and restrictive provisions covering all aspects of the recognition, enjoyment and exercise of human rights and fundamental freedoms, irrespective of race and ethnic origin. The Constitution establishes fundamental principles and provides for the basic constitutional rights with the aim of protecting foreigners and other persons who could be subjected to racial assault, and securing respect for life, freedom and dignity. Article 5 of the Constitution provides that everyone on Greek territory enjoys absolute protection of his or her life, dignity and freedom, with no discrimination based on nationality, race, language or religious or political belief.

28. Law 927/1979, as supplemented by Law 1419/1984, prohibits and punishes discrimination based on race, ethnic origin and religious belief. In particular, three kinds of offences are described and criminalized: incitement to acts that might result in acts of discrimination, hatred or violence against individuals or a group of persons, owing to their racial or national origin or to their religion; the establishment of or participation in organizations with the purpose of conducting discriminatory activities or propaganda; and the official expression of ideas insulting persons or groups of people on the basis of their racial or ethnic origin. The aforementioned crimes are prosecuted ex officio. According to Law 3719/2008, the commission of such an offence motivated by ethnic, racial or religious hatred constitutes an aggravating circumstance.

29. Law 3304/2005 constitutes the general regulatory framework for combating discrimination in employment and the implementation of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disabilities or sexual orientation. The law establishes bodies to promote the principle of equal treatment, including the Ombudsperson, who examines complaints of alleged violations by civil servants; the Labour Inspectorate; and the Committee of Equal Treatment, responsible for complaints of violations by natural persons and which is supported by the Service of Equal Treatment under the Ministry of Justice, Transparency and Human Rights.

30. The Government referred to the new draft law for the integration into the Greek legal order of Framework Decision 2008/913/JHA for addressing certain forms and manifestations of racism and xenophobia through the criminal law. The law includes provision for the prosecution of racist and intolerance offences; the administrative liability of legal entities that are involved in any form or manifestation of racism or intolerance; and the expansion of the grounds of discrimination to include sexual orientation. Greece has signed the Convention on Cybercrime and its Additional Protocol concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems. A draft law has been evaluated by a special legislative committee and transmitted to the Minister of Justice for submission to parliament for final adoption.

31. Law 3386/05 on the entry, residence and social integration of third-country nationals in the Hellenic territory provides for transparent procedures relating to the entry of migrants and the renewal of their residence permits, and ensures that migrants can exercise their rights. Law 3852/2010 provides for the establishment of Migrant Integration Councils in municipalities.

32. The Government has drafted a National Strategy for the Integration of Third-Country Nationals following an extensive process of consultation between governmental and non-governmental agencies. The Government also referred to the programmes and actions implemented annually under the European Integration Fund for Third-Country Nationals aimed at the smooth local integration of migrant populations.

Iraq

33. In its reply, the Government of Iraq stated that the practices mentioned in General Assembly resolution 66/143 were a fundamental cause of broken community ties and strife and turmoil among the citizens of one country or among different countries. Such practices poison young minds with racist ideas based on violence and xenophobia, meaning that members of national, ethnic, religious and linguistic minorities are liable to be targeted, which in turn poses a threat to the overall state of peace.

34. The necessary actions must be taken by States to end such racist practices through a series of measures, including enacting laws and statutes to criminalize the practices and establishing punishments to deter them; promoting the role of governmental and non-governmental organizations in fostering a culture of tolerance among minorities and strengthening ties of peaceful coexistence and acceptance of others; and launching initiatives aimed at bringing cultures closer together and reconciling the views of different communities through dialogues and

meetings, including workshops and training courses for civil servants, media personnel and persons active in civil society.

35. The Government underlined the importance of optimizing the use of the Internet in order to avoid electronic sites that seek to promote racist ideas, xenophobia and racial discrimination, and the importance of taking steps to limit their presence by fostering a culture of peace, coexistence and tolerance on the World Wide Web.

36. The Government provided information about the measures it had adopted to curb these practices and highlighted the provisions of the Iraqi Constitution, which is the supreme instrument in terms of respect for human rights and the principle of equality and non-discrimination. The Constitution prohibits entities that advocate religious hatred and incite discrimination, aggression or violence. The Constitution also guarantees a number of rights and freedoms including the right to the freedom of expression, assembly and peaceful demonstration; the right to form and join associations and political parties; the right to freedom of thought, conscience and belief; and the right to freedom of worship. Efforts are being undertaken to ensure full respect for and protection of religious places, sites, shrines and symbols, and additional measures are being taken to protect holy sites against desecration and attack. The Constitution also guarantees to the children of minorities an education in their mother tongue, both in Government and private educational institutions.

37. Since its establishment, the Ministry of Human Rights has endeavoured to eliminate racist practices, racial discrimination and xenophobia through the organization by the National Human Rights Centre of workshops, training courses and seminars and through the incorporation of human rights principles and the culture of tolerance into the academic curricula at all levels.

Jordan

38. In its reply, the Government of Jordan indicated that article 6 (1) of the Constitution provides that all Jordanians are equal before the law and that they have the same rights and duties, without discrimination on the grounds of race, language or religion. Pursuant to Act No. 26 of 2010, amending the Labour Code, workers are no longer required to be Jordanian citizens in order to join trade unions. The Interim House of Deputies Election Act No. 9 of 2010 provides that speeches, statements, declarations and electoral publicity shall exclude all material that, directly or indirectly, causes damage to any candidate or stirs up sectarian, tribal, regional, provincial or racial strife among citizens.

39. Any act of violence or incitement against a person or group on the grounds of race, colour, descent or national or racial origin is an offence punishable by the law. In order to declare illegal and prohibit organizations and all propaganda activities that promote and incite racial discrimination and to recognize participation in such organizations and activities as an offence punishable by law, article 151 of the Criminal Code states that the same penalties (imprisonment for a term of six months to three years and a fine of up to 50 dinars) applies to all those who belong to an association founded for the purpose mentioned in article 151 of the Code. The minimum term of imprisonment is raised to one year and the fine increased by 10 dinars if the culprit has an official function in such an association. In any event, the association will be dissolved and its assets seized.

40. Laws and regulations are in place to provide further protection for Jordanian and non-Jordanian workers. The provisions of the Labour Code apply to all workers, irrespective of their sex, nationality, race, colour or religion.

41. The Government highlighted the role of the Directorate of Public Security in combating racial discrimination. In compliance with the obligations laid down in the International Convention on the Elimination of All Forms of Racial Discrimination, the Directorate of Public Security can repress any action that is likely to encourage racial discrimination. On the basis of the policy of calling for balance, the Directorate of General Security seeks to apply the above concepts, including by adopting punitive and administrative policing measures to prevent the emergence of extremist groups that advocate violence based on racism and xenophobia; training and certifying those employed in the public security apparatus to gather information about extremist groups and transmit it to the competent judicial authorities; continuing to study the King's Amman Message of 2004 and disseminate its principles; taking action to prevent the growth of ideas that are likely to incite hatred or discrimination; adopting stringent measures to counter any incitement to discrimination; adopting measures to ensure equal opportunities of recourse for all to the police and the judiciary; and recruiting members of local communities in different regions, regardless of their roots.

42. The Directorate of General Security has established a Human Rights Office competent to deal with and examine complaints of human rights violations in general and take any necessary legal steps. The Office runs training courses for members of the Directorate in various areas of human rights, including the fight against racial discrimination.

Lebanon

43. In its reply, the Government of Lebanon stated that practices that contributed to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance were non-existent in Lebanon and were to be found in other countries. Tackling such practices demands concerted efforts by all States Members of the United Nations to address the causes of such practices and establish cooperation in that regard.

44. The Government provided information about the activities of the Internal Security Forces. The territorial divisions of this unit carry out the necessary measures and investigations with respect to all complaints received directly by them or referred to them by the competent public prosecution offices in accordance with the applicable laws, without distinction as to whether the complainant or the person against whom the complaint is made is a foreign national. They perform their judicial functions on the basis of the laws, directives and instructions pursuant to which investigators are bound to respect human rights. The Directorate General of Public Security implements the decisions of the executive branch and, within the framework of its powers, investigates any groups or individuals constituting a potential threat to security and stability, including organizations or activities based on racist premises.

Madagascar

45. Law No. 68021 of 17 December 1968 incorporated the International Convention on the Elimination of All Forms of Racial Discrimination into the national legislation of Madagascar. The principles of equality and non-discrimination, including on the basis of sex, origin and race, are prescribed in article 6.3 of the Constitution. The law sanctions acts of defamation that lead to discrimination, hatred or violence against a person on the basis of his or her origin, colour, sex, race or religion, and the Labour Code contains provisions regarding respect for the dignity of the person. The Criminal Code sanctions limitations imposed on the exercise of a right based, inter alia, on a person's colour, sex, origin, ethnicity, race or religion. National human rights institutions, including the National Commission for Human Rights and the National Committee for the Fight against Racial Discrimination, have been established and require the participation of the relevant ministerial departments, members of civil society and non-governmental organizations.

46. All the relevant ministries will be consulted and civil society organizations involved in the elaboration of the necessary laws. A draft law is to be submitted to the Committee for Legislative Reforms within the Ministry of Justice. In order to implement the General Assembly resolution, the following acts would be considered to be offences: the dissemination or propagation of ideas based on racial superiority; acts of violence and incitement to racial discrimination; any gross and flagrant violation of or limitation on freedom of opinion and expression and freedom of association and assembly; and defamation of a race or ethnic group. The Government referred to the implementation of several programmes, including training and educational measures on human rights, racism and racial discrimination; measures for the improvement of the situation of certain ethnic groups or individuals who need further protection in the enjoyment of their freedoms; awareness-raising activities carried out by civil servants in partnership with members of civil society; measures targeting the media, including with regard to the dissemination of or propaganda for ideas of racial superiority; as well as training on the elimination of racial discrimination provided in national educational programmes for the media, law enforcement agents, the judiciary and civil servants.

Mexico

47. In its reply, the Government of Mexico highlighted the constitutional amendments and legislative reforms undertaken and the institutions and policies set up to end discrimination. The law prohibits racial discrimination and xenophobia and, since April 2012, the Law to Prevent and Eliminate Discrimination has included racial segregation and other forms of intolerance. At the local level, 12 states have made discrimination a felony, in accordance with article 1 of the Federal Constitution.

48. The National Programme to Prevent and Eliminate Discrimination was published on 16 April 2012. It aims at guiding public policies to generate data, statistics, research and knowledge on the issue of discrimination; promoting the principle of non-discrimination in the public service and within the states; creating a culture of non-discrimination in society; and taking specific measures to ensure equal opportunities. In 2011 the Government, through its National Council to

Prevent Discrimination, published a guide to help the public sector design public policies to prevent discrimination against Afro-descendant communities and ensure their inclusion.

49. An awareness-raising campaign on racism aimed at the general public, in particular children between the ages of 3 and 9 years, was implemented in 2011. A handbook that contains basic concepts and guidelines on discrimination was published in 2011 in order to raise awareness among journalists about discriminatory articles and news coverage.

50. The Mexican Refugee Law includes the principle of non-discrimination and mandates the Ministry of the Interior to take all necessary measures to prevent discrimination against refugees. The Immigration Law also includes respect for human rights and non-discrimination as guiding principles of the country's immigration policy, including for irregular migrants. Awareness-raising and educational materials to inform migrants and refugees about their rights and legal avenues of recourse in case of violations were developed in collaboration with non-governmental organizations working with migrants and refugees. Refugee Week has been celebrated every year since 2007. Measures to facilitate the integration of refugees and assist them in accessing public services, including education and health services, were mentioned, as were capacity-building measures for civil servants, including immigration officers, on the rights of refugees.

Paraguay

51. The Government of Paraguay indicated that the National Secretariat for Culture was one of the key departments for the implementation of policies designed to combat discrimination, racism and xenophobia. It promotes inclusion, non-discrimination and support for diversity among different cultural groups and the general public. Issues of equality and non-discrimination are also addressed by the executive through a coordinated human rights network that includes various ministries and secretariats. Reference was made in this regard to the proposal for a national human rights plan in strategic area I (transformation of structural human rights inequality), which was launched recently.

52. Paraguay has no specific legislation concerning the protection of persons against discrimination, racism and xenophobia, although article 46 of the Constitution addresses the fundamental right not to be discriminated against. An anti-discrimination bill has been before parliament for some time aimed at increasing protection against discrimination on various grounds, as well as against racism, xenophobia and related forms of intolerance.

Philippines

53. The Government of the Philippines stressed that the growing population of migrants all over the world was increasingly exposed to acts and expressions of racism, discrimination, xenophobia and intolerance, and that the protection of migrant workers continued to be a priority. The welfare of migrant workers is ensured through a firm policy and framework of laws, rules and regulations and programmes that cover the entire process of migration from predeployment to return to reintegration. The increased number of ratifications of the International

Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, which guarantees non-discrimination, protection against violence, threats and intimidation and respect for cultural identity, should be among the priority recommendations of the Special Rapporteur.

Portugal

54. The Government of Portugal indicated that the principle of equality was enshrined in article 13 of the Constitution. Law No. 18/2004 lays down a framework for combating discrimination on the grounds of racial or ethnic origin. Under the Criminal Code, whoever founds or establishes an organization or develops activities of organized propaganda that incites or encourages discrimination, hate or violence against a person or a group of persons on the grounds of their race, takes part in such an organization or in its activities or gives support thereto shall be punished by a prison term of one to eight years. Furthermore, racial motivation is considered an aggravating circumstance allowing for more severe penalties in cases of homicide and offences against physical integrity. Administrative complaints of racial discrimination can be made by anyone against any public authority, service or individual to the Commission for Equality and against Racial Discrimination. The Ombudsman is also competent to hear complaints regarding racist acts and discrimination on the part of public authorities.

55. Addressing the phenomenon of neo-Nazism or neo-fascism requires a global approach. Article 46, paragraph 4, of the Constitution prohibits the establishment of associations or organizations that are racist or display a fascist ideology; extreme right-wing parties propagating racist attitudes and xenophobia did not gain significant electoral results in Portugal, nor has an anti-immigrant sentiment developed in public opinion. In order to implement its policies, Portugal has established a public institute that, among other competencies, is responsible for combating racism, promoting the integration of immigrants and Roma communities and promoting intercultural dialogue.

56. The National Criminal Police Unit against Terrorism regularly monitors websites, web chat rooms and other forums associated with or linked to violent extreme right-wing groups, such as those connected with Portuguese Hammerskins. The National Republican Guard and the Public Security Police carry out preventive and repressive actions including during public demonstrations by extremist movements and among groups of supporters of sports teams. The website of the Commission for Equality and against Racial Discrimination has a special tool called "Racism on the Internet" providing users with a link to a national project called "Safe Internet", where citizens can file a complaint against a blog or website that has racist content.

Russian Federation

57. The Government of the Russian Federation affirmed that particular attention was paid to the elimination of various manifestations of racism based on Nazi ideology, especially among the youth. Reference was made to the 2011 project on the implementation of measures for systematic collaboration between State authorities, civil society organizations and educational institutions in the prevention

of extremism among the youth. Public debates were held to discuss this problem, and Internet resources regarding the issues of prevention of extremism and respect for different cultures and traditions regardless of nationality were created.

58. New federal education standards were developed between 2009 and 2011 and, in order to promote mutual understanding and tolerance in education, the issue of the Holocaust has been included in school curricula and the State's educational standards. In the second half of 2012, institutions under the Ministry of Education and Science plan to hold a number of international meetings, seminars and academic and student conferences devoted to the history of the Russian Federation, including the dramatic events of the Second World War.

59. The Ministry of Education and Science and other relevant ministries have launched a new course on religious cultures and secular ethics with the participation of key religious organizations and scientific and educational institutions. The course aims, inter alia, to sensitize young children and develop their ability to communicate in a multi-ethnic and multi-confessional environment, based on mutual respect and dialogue.

60. Information was provided about the model law on the inadmissibility of actions aimed at the rehabilitation of Nazism and the glorification of Nazi criminals and their accomplices adopted by the Inter-Parliamentary Assembly of the Commonwealth of Independent States on 17 May 2012. The Law refers to principles and norms of international law, including the Charter of the United Nations, the International Covenant on Civil and Political Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and the International Convention on the Elimination of All Forms of Racial Discrimination. The Law prohibits, inter alia, the dissemination of Nazi materials by the mass media; the use of images representing Nazi criminals and their accomplices in advertisements; the use of Nazi symbols and the dissemination of Nazi materials during public events; the establishment of public and religious associations and other organizations whose objective and activities display signs of the rehabilitation of Nazism; glorification of Nazi criminals and their accomplices; and the use of the Internet to disseminate Nazi materials. The Law also provides for measures to prevent and monitor such phenomena, with the aim of detecting and eliminating the conditions conducive to the rehabilitation of Nazism. These include the examination of materials and documents containing signs of rehabilitation of Nazism and glorification of Nazi criminals and their accomplices that are carried out by the relevant States organs, and parliamentary monitoring of the observance of the law.

Slovakia

61. The Government of Slovakia indicated that discrimination was prohibited on the grounds, inter alia, of colour, language, national origin or gender. In accordance with section 10, paragraph 1, of the Act on the Right of Assembly, the relevant municipality may prohibit the holding of an assembly whose purpose is to call for the denial or limitation of the rights of citizens because of their nationality, sex, race, origin, political or other views, religion or social status, or to incite hatred and intolerance based on those grounds.

62. The Act on the Association of Citizens forbids associations whose objective is to deny or limit the rights of citizens because of their nationality, sex, race, origin, religion, social status, political or other views, or to incite hatred and intolerance for those reasons. The Criminal Code includes offences regarding extremism, including the manufacture, dissemination and possession of extremist materials and incitement to national, racial or ethnic hatred. A generally applicable aggravating circumstance is enshrined in the Criminal Code for offences committed with a specific motivation, including offences committed with the intention of publicly inciting to violence or hatred against a group of persons or an individual because of, inter alia, his or her race, nationality, ethnic group or religion.

63. The Government has adopted a strategy for the fight against extremism for the years 2011-2014. The purpose of the strategy is to eliminate the causes, manifestations and consequences of extremism and racially motivated crimes. Human rights are included in the training programmes of police academies. The breach of the principle of equal treatment by a police officer is considered a breach of service duties. The competent authority for the criminal investigation of police officers is the Office of the Inspection Service of the Ministry of the Interior.

64. A conference on extremism was organized in 2011 by the Department of Extremism and Spectator Violence of the Office of the Criminal Police of the Presidium of the Police Force, and a virtual conference entitled "Extremism: a threat to democratic society" was also held in 2011. Reference was also made to the training organized by the Department of Extremism and Spectator Violence for the General Prosecution Service of the Slovak Republic and the Judicial Academy. The Government also provided information about projects at the county level dealing with racial intolerance and combating discrimination against the Roma; the preventive and educational programmes; and the lectures and conversations focusing on racism, the Holocaust, foreigners and ethnicity.

Spain

65. The Government of Spain indicated that the right to equality was enshrined in article 14 of the Constitution. The Ministry of Health, Social Policy and Equality has been established and is developing the Government's policy on equality and the prevention and elimination of all forms of discrimination.

66. The Council for the Promotion of Equal Treatment and the Prevention of Discrimination on the Basis of Racial or Ethnic Origin provides assistance to victims of discrimination, considers complaints, conducts studies and formulates recommendations on equal treatment and the prevention of discrimination based on racial and ethnic origin.

67. The Government referred to the 2011 Integral Strategy against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the 2012-2020 National Strategy for the Social Inclusion of Roma and the 2011-2014 Strategic Plan for Citizenship and Integration.

68. A map of the prevalence of discrimination in Spain is being developed in order to provide an understanding of the social perceptions of the population on discrimination and of the victims of discrimination. This map will constitute an

essential mechanism for improving legislation and the public policies aimed at guaranteeing equal treatment and non-discrimination in Spain.

69. The Government made reference to the 2011 Project Todoimás Forum entitled "For equal treatment and non-discrimination" at which representatives of the public administration debated with social actors and movements on the elements that policies should include to achieve equal treatment and non-discrimination. Reference was also made to the creation of a local plan of action against discrimination with the aim of providing local authorities with the tools to prepare policies as well as to create local offices for non-discrimination.

70. The 2010 General Law on Audiovisual Communication prohibits incitement to hatred or discrimination. Measures have been implemented in the context of the fight against racism and xenophobia on the Internet, including the establishment of the post of a special district attorney on cybercrime in all district attorneys' offices of the State and the creation of services specializing in cybercrime within the security forces of the State.

71. Several projects have been implemented to ensure the equal treatment of immigrants and ethnic minorities in employment. Some programmes are specifically focused on the Roma population, including in the area of education.

72. In terms of legislative measures, the Government referred to the anti-discrimination provisions set out in the Penal Code, as well as other legal provisions regarding the prohibition of discrimination against foreigners; the prohibition of racist political parties; discrimination in sport; and the elimination of racism, xenophobia and other forms of intolerance in specific fields, including in access to basic goods and social services.

Venezuela (Bolivarian Republic of)

73. The Government of the Bolivarian Republic of Venezuela stressed that extremist movements and groups constituted a threat to democracy. It condemns any attempt by any organization or movement to promote racist practices or restore ideologies based on racial, ethnic or religious superiority, as well as any contemporary statement of racism or xenophobia that tries to promote hate and racial discrimination.

74. The Government called upon the international community to effectively address the threats that the resurgence of racist practices and ideologies based on racial, ethnic or religious superiority represent, including by promoting policies that would contribute to the strengthening and consolidation of harmonious and democratic societies. It also called for the full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and the commitments of the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference.

III. Contributions received from the United Nations system and non-governmental and other organizations

75. The Office of the United Nations High Commissioner for Refugees expressed concern about the prevalent climate of intolerance, xenophobia and racism against refugees, asylum seekers and other persons of concern to UNHCR in many countries. It indicated that national legal frameworks on racism were often too weak. For instance, criminal codes sometimes lack a definition of racial discrimination or fail to criminalize hate crimes or racist organizations; restrictive laws on asylum and migration sometimes disregard international refugee and human rights law, including those that penalize irregular entry and stay, allow prolonged detention of asylum seekers without the availability of a review process or fail to provide for proper safeguards and access to appeal to protect against refoulement. Moreover, discrimination on the basis of race or ethnic origin, sometimes in combination with discrimination on other grounds, is a recurring reason for the denial or deprivation of nationality and is therefore a cause of statelessness. Statelessness itself often leads to discrimination and where stateless populations belong to racial, ethnic or other minorities, their lack of nationality may reinforce existing patterns of discrimination.

76. Even in situations where the legal framework provides adequate protections against racial discrimination and related intolerance, implementation may still pose a problem. For instance, racist hate crimes against refugees and asylum seekers are frequent in many countries and can include killings, physical and sexual violence, verbal harassment and threats, damage to property and arson. Although these acts may be prohibited by law, lack of reporting or inaction on the part of police and the courts can create a culture of impunity. In particular, asylum seekers may be unaware of the legal rights and remedies available to them or may be reluctant to report hate crimes because they lack trust in the authorities or fear that their irregular status will cause them to be detained or deported. Many countries lack sufficient data collection mechanisms and often possess no official statistics on hate crimes.

77. Certain factors contribute to creating and reinforcing negative racial stereotypes, in particular the type of discourse prevalent in politics and in the media during periods of economic downturn. This discourse tends to characterize migrants and refugees as threats to the social security system, to the economy or to national security. The media often report on refugees and asylum seekers only in the context of criminality or "abuses" of the immigration or social system, rather than discussing refugees' positive contributions to society or the particular challenges they face. While politicians should strongly condemn racist attitudes and violence, they themselves often engage in extremist rhetoric, blaming migrants and refugees for social and economic problems or declaring the need to maintain a more homogeneous "national identity". The education system also plays an important role in shaping public attitudes, but in many countries, school curricula either ignore the contributions of racial minorities or portray them negatively.

78. Persons of concern are often denied essential social and economic rights or encounter discrimination when trying to access health care, employment, accommodation and education. These severe obstacles to durable social integration can further perpetuate the vicious cycle of poverty, exclusion and misunderstanding. Racial discrimination and xenophobia cause enormous challenges for refugees and

asylum seekers in accessing durable solutions because these problems prevent them from fully integrating into their country of asylum, resettlement or return.

79. Native American individuals and organizations provided information about challenges faced by Navajos living in the United States of America with regard to racism and racial discrimination, including inequality before the law and the lack of access to justice and legal remedies. They called for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

80. Amis des étrangers au Togo provided information about discrimination against women, elderly persons, people with disabilities and ethnic minorities in Togo. It indicated that migrants are particularly marginalized and discriminated against and that discrimination on the basis of sexual orientation remains a problem in Togo. Reference was made to the criminalization of homosexuality under the law.

81. The Lithuania without Nazism Association provided information about the falsification of history in Lithuania. It indicated that such falsification contributes to the rehabilitation of Nazism and creates fertile ground for nationalist and neo-Nazi manifestations. The Association indicated that permits for Nazi marches were issued at the municipality level, people sharing Nazi ideology serve in the army and Nazi flags and symbols are displayed on Hitler's birthday without sanction. Serious action should be taken to prevent revisionism of the Second World War, the denial of the Holocaust and the Nazi genocide and the glorification of Nazi criminals, which lead to the growth of neo-Nazi, xenophobic and anti-Semitic sentiments and foment inter-ethnic conflicts. The resolution adopted at the conference held on the International Day of Liberation of Prisoners of Nazi Concentration Camps held on 11 April 2012 in Lithuania was also mentioned.

82. The Association of Human Rights in Kurdistan of Iran provided information about the human rights situation of the Kurdish people in the Islamic Republic of Iran, including poverty, marginalization and discrimination experienced in the areas of employment, in both the public and private sectors, and in education, including access to universities, which impede their participation in economic life. The Association further indicated that while article 15 of the Iranian Constitution recognized the use of regional and tribal languages, in practice the Kurdish language was not taught in schools and there was a lack of its effective use in public life.

83. The BADIL Resource Center for Palestinian Residency and Refugee Rights provided information about the situation of Palestinian civilians in the Occupied Palestinian Territory and recalled, in this regard, the concluding observations of the Committee on the Elimination of Racial Discrimination following its consideration of the report of Israel in 2012.

84. In providing information about the situation in Northern Ireland, the British Irish Rights Watch stressed the importance of monitoring the human rights dimension of conflict and peace processes, integrating respect for human rights in all institutions and disseminating the human rights lessons learned from the conflict in order to promote peace and reconciliation and prevent conflict.

85. Adalah: Legal Center for Arab Minority Rights in Israel provided information about the Israeli legal, political and policy framework and its impact on the Arab citizens of Israel and the Arab Bedouin in the Naqab (Negev), including with regard to poverty, inequalities in education, employment and health, and participation in political and cultural life.

IV. Conclusions and recommendations

86. **The Special Rapporteur is grateful to all the Member States that provided information on the measures implemented pursuant to General Assembly resolution 66/143. He also appreciates the contributions received from the Office of the United Nations High Commissioner for Refugees and non-governmental and other organizations. He notes with appreciation the increase in the contributions received both from States and organizations, and recalls the importance of full cooperation with his mandate as stipulated in Human Rights Council resolution 16/33.**

87. **The Special Rapporteur notes that some States referred in their replies to the non-existence in their territory of the phenomena identified in General Assembly resolution 66/143 and to the limited influence of extreme right-wing political parties on public opinion in their countries. The Special Rapporteur would like to emphasize that the human rights and democratic challenges posed by extremist political parties, movements and groups are universal and no country is immune to such phenomena. He calls upon States to ensure increased vigilance and strengthen efforts and political will in recognizing and addressing effectively such phenomena. In this regard, as stated in his reports to the Human Rights Council (A/HRC/20/33 and A/HRC/20/38), he recommends that States adopt a comprehensive approach based on solid preventive and legal frameworks complemented by key measures and enforced in an inclusive and effective manner in line with the relevant instruments, including the Durban Declaration and Programme of Action and the outcome document of the Durban Review Conference.**

88. **The Special Rapporteur welcomes information provided regarding the ratification of a range of instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination and its incorporation into the domestic order at the constitutional level. He also appreciates the recognition by some States of the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual communications. He urges those States that have not yet done so to ratify the Convention and to make the declaration under its article 14.**

89. **Several countries informed the Special Rapporteur that their constitution and legislation enshrine the principles of equality and non-discrimination and prohibit incitement to racial, religious and national hatred. Some States have also included discrimination based on sexual orientation in their legal framework, which is appreciated by the Special Rapporteur. Furthermore, the Special Rapporteur notes that some countries have adopted legislation specifically to address the challenges posed by extremist political parties, movements and groups, and have elaborated legal or constitutional provisions to prohibit organizations and associations that incite to discrimination, national, racial or religious hatred or violence and propagate fascist ideology. However the Special Rapporteur also notes that some States whose constitutions prohibit discrimination have not yet adopted legislation regarding racial discrimination. He further notes that legislation, when it exists, does not always include a definition of racial discrimination. The Special Rapporteur encourages States to adopt the necessary legislation to combat racism while ensuring that the definition of racial discrimination complies with article 1 of**

the Convention. In this regard, the Special Rapporteur recalls that any legislative or constitutional measures adopted with a view to countering extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements should be in conformity with the relevant international human rights standards. He urges States to fully respect and implement their obligations under article 4 of the Convention and articles 19, 20, 21 and 22 of the International Covenant on Civil and Political Rights.

90. The Special Rapporteur notes with appreciation that several States have prescribed in their criminal code that racist and xenophobic motivation constitute an aggravating circumstance attracting heavier sanctions. He reiterates the recommendation made in his report to the Human Rights Council (A/HRC/20/38, para. 19) and calls upon States to ensure the effective implementation of such provisions in order to prevent and sanction racist or xenophobic attacks perpetrated by individuals or groups of individuals closely linked to extremist political parties, movements and groups.

91. While welcoming information provided regarding measures taken to prevent discrimination against members of minorities, people of African descent, the Roma, migrants, refugees and asylum seekers and to ensure their integration into society, the Special Rapporteur, in the light of the information provided by UNHCR, would like to urge States to ensure the full and effective implementation of legal, policy and institutional measures targeting these groups of individuals. The gap between the legal and institutional framework and the challenges faced by these vulnerable groups, including with regard to racist and xenophobic acts by extremist groups or individuals, remain of particular concern. Therefore, the Special Rapporteur recommends that States effectively guarantee to these groups, without discrimination of any kind, the right to security and access to justice, including through effective remedies, adequate reparation, legal aid and appropriate information about their rights, as well as the prosecution and adequate sanction of those responsible for racist crimes against them. In this respect, the Special Rapporteur would also like to recall paragraph 88 of the Durban Declaration, in which it is recognized that the media should represent the diversity of a multicultural society and play a role in fighting racism, racial discrimination, xenophobia and related intolerance.

92. Concerns expressed by the Special Rapporteur in his report to the Human Rights Council (A/HRC/20/38) regarding in particular the scapegoating of certain groups, including migrants, refugees and asylum seekers, in the context of the economic crisis, and the nationalistic rhetoric in which some traditional political parties have also engaged were raised in some of the contributions received. The Special Rapporteur reiterates the recommendations made in the aforementioned report regarding the responsibility of political leaders and parties in condemning and refraining from disseminating messages that scapegoat vulnerable groups and incite racial discrimination or xenophobia.

93. The Special Rapporteur notes with interest the institutional measures taken by States in order to tackle extremism, including through national institutions with a general human rights mandate or a specific mandate to fight against racial discrimination and competent to receive and consider complaints

from individuals. He reiterates that States should provide the necessary resources to such institutions while fully respecting their independence, in line with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles, General Assembly resolution 48/134, annex). The Special Rapporteur calls upon those States that have not yet established such institutions, or institutions that do not conform to the Paris Principles, to remedy this situation.

94. The Special Rapporteur takes note of information regarding the lack of sufficient data collection mechanisms and the absence of official statistics on hate crimes. He urges States to collect data on racist and xenophobic incidents, including those perpetrated by individuals affiliated with extremist political parties, movements or groups, while fully respecting international human rights standards and involving the victims and civil society organizations.

95. A number of positive initiatives have been identified in States' replies and include awareness-raising activities to foster tolerance, respect for cultural diversity and mutual understanding, and the organization of conferences on extremism, lectures on racism and initiatives aimed at bringing different communities together. The Special Rapporteur is of the view that the organization of cultural events, research work, festivals, conferences, seminars, exhibitions and information campaigns are further positive measures which contribute to the building of a society based on pluralism and non-discrimination (A/65/323, para. 110). He therefore encourages States to strengthen the implementation of such initiatives in order to prevent the rise and the influence of extremist ideologies based on racial superiority propagated by extremist political parties, movements and groups.

96. Training provided to State agents, including the police and immigration officers, on human rights and non-discrimination and the gathering of information on extremist groups are welcomed by the Special Rapporteur. He encourages States to adopt further measures to sensitize the police on the ideologies of extremist political parties, movements and groups that incite racial discrimination and xenophobia. He further recommends the strengthening of their capacity to address racist and xenophobic crimes and actively engage with groups and individuals particularly vulnerable to racist acts by extremist individuals or groups.

97. Some States provided information about the use of the Internet to foster a culture of peace and tolerance and the creation of websites where individuals can file complaints against a blog or website with racist content. The Special Rapporteur welcomes the positive approach promoted with respect to the use of the Internet and recalls in this regard paragraph 92 of the Durban Declaration according to which States recognize the need to promote the use of new information and communication technologies, including the Internet, to contribute to the fight against racism, racial discrimination, xenophobia and related intolerance. He further recommends the implementation of the recommendations made in his report to the General Assembly focusing on racism and the Internet.

98. The Special Rapporteur welcomes the measures developed by some States to prevent the negative influence of extremist political parties, movements and groups on youth, including educational measures, and courses aimed at

sensitizing young children and developing their ability to interact in a multi-ethnic and multi-confessional environment. The Special Rapporteur recommends the increase of measures to raise awareness among the youth on the dangers of ideologies and activities of extremist political parties, movements and groups. In this regard, education in general and human rights education in particular remains a key tool in countering the influence of these ideologies among the youth.

99. **The Special Rapporteur notes with appreciation the emphasis put on human rights education in some replies. He appreciates in particular information provided about the studying of languages, history and cultures of ethnic minorities in schools, the inclusion of the issue of the Holocaust in school curricula, as well as the incorporation of human rights principles and the culture of tolerance into the academic curricula at all levels. The Special Rapporteur recommends that States continue to invest in education in order to transform attitudes and correct ideas of racial hierarchies and superiority promoted by extremist political parties, movements and groups and counter their negative influence. He further recommends cooperation with the United Nations Educational, Scientific and Cultural Organization, including in the framework of the relevant programmes set up by the organization regarding human rights education, racism and racial discrimination.**

100. **The Special Rapporteur welcomes the information regarding coordination between the different governmental structures in order to maximize efforts on the issue of equality and non-discrimination. He encourages such coordinated efforts, and also recommends the inclusion of a variety of actors, including civil society actors and national human rights institutions. Furthermore, the Special Rapporteur welcomes the initiatives taken to ensure cooperation at the regional level, including through seminars and conferences, and the ratification of the relevant regional human rights instruments. He reiterates the recommendations made by his predecessor regarding the importance of cooperating closely with civil society and international and regional human rights mechanisms in order to counter effectively extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements.**